

Agricultural Marketing Service, USDA

§ 993.157

of a handler's application shall be transmitted to the handler on Form PMC 2.31 "Permission to Dispose of Undersized Prunes." In approving an application, the Committee shall specify the crop year or the period within, or the portion of, the crop year for which the approval is granted. When the use or name and address of the user or consignee are not known to the handler, the Committee shall not approve the application until it has been informed as to such use and user and consignee of the prunes. The requirements of § 993.150(e)(1)(iv) (except item (a) thereof), (v), and (vi) with regard to disapproval of applications or revocation of approved applications, evidence of nonhuman disposition, and the maintenance of books and records, applicable to prunes which fail to meet minimum standards, shall also apply to undersized prunes.

(2) *Documentation of disposition of undersized prunes*—(i) *Documentation of shipment or other disposition.* For each quantity of undersized prunes so shipped or otherwise disposed of, the handler shall promptly forward to the Committee one copy of the applicable bill of lading, truck receipt, or related documentation of disposition which shall show: (a) The name of the consignee; (b) the destination by name and address of the person designated to receive the prunes; (c) the date of shipment or other disposition; (d) the net weight of the prunes; and (e) identification of the prunes as undersized prunes.

(3) *Tolerances permitting a deviation in prune sizes from applicable undersized openings*—(i) *Undersized French prunes.* Whenever an undersized regulation specifies an opening for French prunes, any quantity of any size of French prunes disposed of by a handler in compliance with § 993.50(g) shall satisfy a handler's undersized disposition.

(ii) *Undersized non-French prunes.* Whenever an undersized regulation specifies an opening for non-French prunes, any quantity of any size of non-French prunes disposed of by a handler

in compliance with § 993.50(g) shall satisfy a handler's undersized disposition.

[26 FR 8280, Sept. 2, 1961, as amended at 27 FR 458, Jan. 17, 1962; 29 FR 2331, Feb. 11, 1964; 33 FR 14172, Sept. 19, 1968; 35 FR 5108, Mar. 24, 1970; 35 FR 11381, July 16, 1970; 37 FR 15980, Aug. 9, 1972; 40 FR 52838, Nov. 13, 1975; 48 FR 57261, Dec. 29, 1983; 57 FR 56243, Nov. 27, 1992; 58 FR 13698, Mar. 15, 1993; 59 FR 10228, Mar. 3, 1994]

EFFECTIVE DATE NOTE: At 68 FR 43618, July 24, 2003, § 993.150 was amended by suspending paragraphs (a), (b), (d), (e), (f) and (g) effective August 1, 2003 through July 31, 2006.

RESERVE CONTROL

§ 993.156 Application of reserve percentage.

The reserve obligation of each handler shall be determined by applying the reserve percentage to the weight of prunes in each lot, after deducting the weight of prunes in such lot shown as a percentage on the applicable inspection certificate as necessary to be removed therefrom pursuant to § 993.49(c), in such manner as may be prescribed in such reserve control regulation established for the crop year in which such lot is received by a handler from a producer or dehydrator.

[30 FR 13311, Oct. 20, 1965]

EFFECTIVE DATE NOTE: At 68 FR 40757, July 9, 2003, § 993.156 was suspended effective August 1, 2003 through July 31, 2008.

§ 993.157 Holding and delivery of reserve prunes.

(a) *Sales and deliveries.* Committee sales and deliveries of reserve prunes from the holdings of any handler shall not exceed the quantity of reserve prunes required to be held by him. The reserve prune holding requirement of the handler shall be reduced by the tonnage so sold or delivered.

(b) *Assistance to handlers.* As assistance to handlers, the committee shall furnish each handler a monthly tabulation, beginning as soon as possible after the start of the crop year, showing his reserve obligation and holding requirement based on records on file with the committee.

(c) *Failure to hold and deliver reserve prunes in accordance with reserve obligation.* In the event a handler fails to hold for the committee and deliver his total reserve prune obligation in any category and is unable to rectify such a deficiency with salable prunes, he shall compensate the committee in an amount computed by multiplying the pounds of natural condition prunes so deficient by the applicable values established by the committee: *Provided*, That the remedies prescribed herein shall be in addition to, and not exclusive of, any of the remedies or penalties prescribed in the act with respect to noncompliance. The determination of any such deficiency shall include application of any tolerance allowance for shrinkage in weight, increase in the number of prunes per pound, and normal and natural deterioration and spoilage which may then be in effect.

(d) *Excess delivery of prunes to the committee.* In the event a handler delivers to the committee as reserve prunes a quantity of prunes in excess of his holding requirement for reserve prunes, the committee shall make such practical adjustments as are consistent with this part and this may include compensating the handler for such excess (nonreserve prunes) by paying to him the proceeds received by the committee for such excess.

(e) *Holding reserve prunes on other than a handler's premises.* No handler shall hold reserve prunes on the premises of another handler, or in approved commercial storage other than on his own premises, unless prior thereto he notifies the committee in a certified report on Form PMC 5.1 "Notice of Proposed Intent to Store Reserve Prunes" which shall contain at least the following information: (1) The date and the name and address of the handler; (2) the name and address of the person on whose premises the reserve prunes will be stored for the handler; (3) the approximate quantity to be so stored and the exact location and description of the storage facilities; and (4) the proposed date that such storage will begin. The report shall be accompanied by a signed statement by the persons on whose premises the reserve prunes are to be stored agreeing to

hold such prunes under conditions of proper storage and further agreeing to permit access to such premises by the committee at any time during business hours for the purpose of examining or taking delivery of such prunes in accordance with the provisions of this part. No handler shall be permitted to hold reserve prunes on any premises outside the area.

(f) *Exchange of salable prunes for reserve prunes.* No handler shall exchange salable prunes for reserve prunes unless he has entered into a sales agreement authorized pursuant to § 993.65(b) whereby the value of any such exchange, and payment therefor to the committee, shall be determined.

(g) *Delivery by nonsignatory handlers.* Any handler not signing the sales agreement authorized pursuant to § 993.65(b), shall deliver to the Committee, upon demand, the total weight of his reserve obligation by such variety, grade, and size categories, and at the count per pound for each size category as is required by the reserve control regulation of the applicable crop year. Such deliveries of prunes may be either graded prunes or any lot of ungraded prunes, or portion thereof, identifiable to the satisfaction of the committee as being in the same form as when received: *Provided*, That the percent of standard prunes in each lot shall be taken into account but with respect to any lot of graded prunes, no credit shall be given to the standard obligation of the handler if in a sample of 100 ounces, the count per pound of 10 ounces of the smallest prunes exceeds the count per pound of 10 ounces of the largest prunes by more than 45 prunes per pound.

[33 FR 19162, Dec. 24, 1968; 48 FR 57261, Dec. 29, 1983]

EFFECTIVE DATE NOTE: At 68 FR 40757, July 9, 2003, § 993.157 was suspended effective August 1, 2003 through July 31, 2008.

§ 993.158 Deferment of reserve withholding.

Any handler who desires to defer withholding pursuant to the provisions of § 993.58 shall notify the committee on Form PMC 9.1, "Notification of Desire for Deferment of Reserve Withholding", containing at least the following information: (a) The date and